

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MARIO H. CAPOGROSSO,

Plaintiff,

Case No. 18 Civ. 2710 (EK) (LB)

-against-

**[PROPOSED] FRE 502(D)
ORDER**

ALAN GELBSTEIN, *et al.*,

Defendants.

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1. A party's production of documents or information that reflect privileged attorney-client communications, constitute attorney work product, were prepared in anticipation of litigation, disclose the mental impressions, conclusions, opinions or legal theories of any attorneys for the party, or are otherwise protected from disclosure ("Protected Information"), whether inadvertent or otherwise, shall not constitute or be deemed a waiver or forfeiture — in this or any other federal or state action or proceeding — of any applicable privilege, immunity or other protection from disclosure, or of the producing party's right to assert such privilege, immunity or other protection from disclosure.

2. Upon being notified that a production containing Protected Information has occurred, the receiving party must promptly locate and either return or destroy all copies of the materials at issue. Unless and until those materials are adjudicated by this Court to be non-privileged, the receiving party cannot use them for any purpose.

3. Nothing contained in this Order is intended to or shall serve to limit a party's right to conduct a review of documents or information for relevance, responsiveness and/or segregation of Protected Information before production.

4. This Order shall be interpreted to provide the maximum protection allowed by Federal Rule of Evidence 502(d).

SO ORDERED:

The Honorable Lois Bloom
United States Magistrate Judge